

**THIS DECISION HAS BEEN APPEALED. THE
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:**

SOAH DOCKET NO. 453-04-7665.M5

MDR Tracking Number: M5-04-2181-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 03-16-04.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that needle EMG and nerve conduction testing done on 07-22-03 was not medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity fees were the only fees involved in the medical dispute to be resolved. As the services listed above were not found to be medically necessary, reimbursement for date of service 07-22-03 is denied and the Medical Review Division declines to issue an Order in this dispute.

This Decision is hereby issued this 23rd day of June 2004.

Donna Auby
Medical Dispute Resolution Officer
Medical Review Division
DA/da

NOTICE OF INDEPENDENT REVIEW DECISION

Date: June 16, 2004

MDR Tracking #: M5-04-2181-01

IRO Certificate #: 5242

___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to ___ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

___ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a Physical Medicine/Rehabilitation reviewer (who is board certified in Physical Medicine/Rehabilitation) who has an ADL certification. The reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Submitted by Requester:

- Letter and notes from ____
- Letter from ____
- Notes from ____

Submitted by Respondent:

- Letter from ____ attorneys for the carrier
- Completed TWCC-60 form
- Table of Disputes
- TWCC-62
- Bill received from ____ Request for reconsideration
- Letter from ____, on behalf of ____
- Notes from ____

Clinical History

The medical information provided in reference to the dispute in question indicates that this employee for ____ fell down some stairs, sustaining sprain/strain and contusions. She underwent primary chiropractic care and was examined in an RME 07/15/03 by ____ Based on ____ examination of the patient, it was determined that she had reached maximum medical improvement 07/15/03 with a diagnosis of resolved lumbar strain, sacral contusion, and elbow contusion. It would appear, based on the description of the examination by ____, that the patient made little response in the examination process and valid testing for parts of the examination were not able to be obtained.

Following the date of maximum medical improvement, 07/15/03, she was seen by ____ for an EMG and nerve conduction study at the request of the treating doctor, _____. In the examination by _____ he noted on the clinical examination symmetrical and normal physical findings in the back and lower extremities with the exception of some numbness on the medial aspect of the knee. Needle EMG and nerve conduction studies were done, and the findings were reported as normal for both EMG and nerve conduction studies.

Requested Service(s)

The specific services requested for the medical dispute resolution consist of the following CPT codes for 07/22/03:

- 99244
- 95861
- 95900
- 95904
- 95935
- 95935-50

Decision

I agree with the insurance carrier that there is no established medical necessity for the needle EMG and nerve conduction testing done 07/22/03.

Rationale/Basis for Decision

My opinion is based on the nature of the injury, indicated to be a soft tissue sprain/strain/contusion, which, by the date of 07/15/03 when she had a required medical examination, was noted to have reached MMI. The clinical examination indicated that the patient was not giving a full maximum effort in the examination process. The results of the testing in question did not identify any abnormality, nor did the clinical examination indicate the probability or likelihood that the electrodiagnostic studies would show any abnormality. Medical necessity of an EMG/NCV test, as for most diagnostic testing, is based on the clinical findings indicating the likelihood the diagnostic study will assist in establishing a plan of treatment.